

# REPUBLIC OF KENYA



## THE NATIONAL ASSEMBLY (THIRD SESSION)

---

### CONVEYANCE OF PUBLIC PETITION

*(No. 17 of 2020)*

### REGARDING THE OBSTRUCTION OF TARMACKING OF THE KONZA- KATUMANI ROAD

---

**Honourable Members,** Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. I therefore wish to report to the House that my office has received a petition submitted by Mr. Bernard Kioko Mutisya and five others on behalf of the residents of Vota, Mua Ward in Machakos Town Constituency.

**Honourable Members,** the Petitioners wish to draw the attention of the House to the obstruction of a road upgrade project undertaken by the Kenya Urban Roads Authority between Konza and Katumani by the registered owner of L.R No. 353/2. The Petitioners aver that the continued use of the road by the public and the fact that the road has been maintained by the Government for over 30 years forms the basis for the National Land Commission to create a public right over the parcel of land.

The Petitioners are apprehensive that the delay in the commencement of the upgrading of the road occasioned by the actions of the owner of the parcel is inhibiting the construction of

the road despite more funds having been allocated by the Government for the project.

**Honourable Members,** the Petitioners therefore pray that the National Assembly through the Departmental Committee on Lands, intervenes to ensure that the portion of the land L.R No. 353/2 ordinarily utilised as a road be converted to create a public right of way in accordance with Article 40 (3)(a) and Section 143 of the Lands Act.

**I thank you!**



**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**Thursday, July 2, 2020**

# REPUBLIC OF KENYA



## THE NATIONAL ASSEMBLY (THIRD SESSION)

---

### CONVEYANCE OF PUBLIC PETITION

*(No. 17 of 2020)*

#### REGARDING THE OBSTRUCTION OF TARMACKING OF THE KONZA- KATUMANI ROAD

---

**Honourable Members,** Standing Order 225(2) (b) requires the Speaker to report to the House any petition, other than those presented by a Member. I therefore wish to report to the House that my office has received a petition submitted by Mr. Bernard Kioko Mutisya and five others on behalf of the residents of Vota, Mua Ward in Machakos Town Constituency.

**Honourable Members,** the Petitioners wish to draw the attention of the House to the obstruction of a road upgrade project undertaken by the Kenya Urban Roads Authority between Konza and Katumani by the registered owner of L.R No. 353/2. The Petitioners aver that the continued use of the road by the public and the fact that the road has been maintained by the Government for over 30 years forms the basis for the National Land Commission to create a public right over the parcel of land.

The Petitioners are apprehensive that the delay in the commencement of the upgrading of the road occasioned by the actions of the owner of the parcel is inhibiting the construction of

the road despite more funds having been allocated by the Government for the project.

**Honourable Members**, the Petitioners therefore pray that the National Assembly through the Departmental Committee on Lands, intervenes to ensure that the portion of the land L.R No. 353/2 ordinarily utilised as a road be converted to create a public right of way in accordance with Article 40 (3)(a) and Section 143 of the Lands Act.

**I thank you!**

  
**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**Thursday, July 2, 2020**

**REPUBLIC OF KENYA**

Telegraphic Address  
"Bunge" Nairobi  
Telephone: +254-020-221291/2848000  
Fax: +254-020-243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)



**Clerk's Chambers**  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
**NAIROBI, Kenya**

NA/DLPS/PRJO/PET/2020/(011)

11<sup>th</sup> March, 2020

Nyamu & Nyamu Company Advocates  
Mayfair Centre  
First Floor  
Ralph Buche Rd./Argwings Kodhek Rd,  
P.O. Box 75928-00200  
Nairobi

Attn. Wilfred Nyamu

Dear

**RE: PUBLIC PETITION BY RESIDENTS OF VOTA IN MAUA WARD,  
MACHAKOS TOWN CONSTITUENCY REGARDING TARMARCKING  
OF THE KONZA-VOTA-KATUMANI ROAD**

We acknowledge receipt of your letter, dated 2<sup>nd</sup> March 2020 on the above-mentioned matter.

We wish to inform you that the Petition has met the requirements set it in the Petitions to Parliament (Procedure Act) and provisions of the National Assembly Standing Orders relating to Public Petitions. The Petition is being processed for conveyance to the House, upon which it will stand committed to the relevant Committee for consideration. You will receive further communication from the Committee regarding subsequent steps that will be taken, including hearing the Petitioners.

Yours Faithfully,

A handwritten signature in black ink, appearing to read 'S. Njoroge', with a stylized flourish at the end.

**S. NJOROGE**  
**For: CLERK OF THE NATIONAL ASSEMBLY**



**Nyamu & Nyamu**  
Company Advocates  
NOTARY PUBLIC AND COMMISSIONERS FOR OATHS

*DLPS*

*Please deal  
05/03/20*

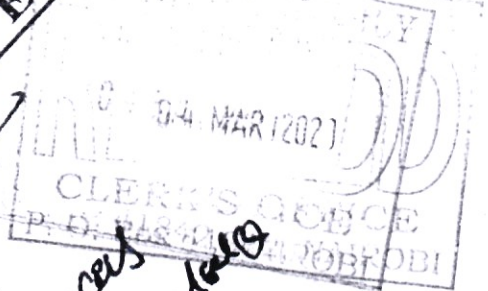
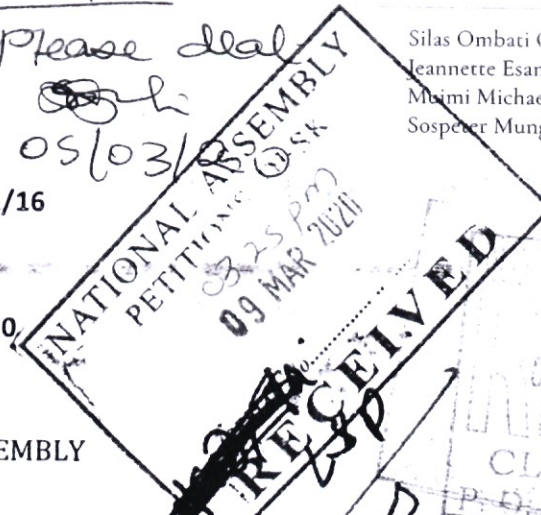
Wilfred Nyamu Mari LLB (Hons) Dip Law K.S.L / CPS(K),  
Juliet I. Khamasi Nyamu LLB (Hons) Dip Law K.S.L / CPS(K)

Silas Ombati Ombongi LLB (Hons.) Dip Law K.S.L  
Jeannette Esami LLB (Hons.) Dip Law K.S.L  
Mwimi Michael Kioko LLB (Hons.) Dip Law K.S.L,  
Sospeter Mungai Kamande LLB (Hons.) Dip Law K.S.L

**OUR REF:** NN/1661/16  
**YOUR REF:**

**DATE:** 2<sup>ND</sup> MARCH, 2020

**TO:** THE SPEAKER  
NATIONAL ASSEMBLY  
**Through**  
THE CLERK,  
NATIONAL ASSEMBLY  
PARLIAMENT BUILDING  
P.O BOX 41842-00100,  
**NAIROBI**



*2010-2011  
This seems  
in order.  
pls process  
and acknowledge  
receipts  
9/13/20*

Dear Sir,

**RE: PUBLIC PETITION TO THE NATIONAL ASSEMBLY BY RESIDENTS OF VOTA IN MUA WARD, MACHAKOS TOWN CONSTITUENCY**

Duly instructed by the Petitioners herein, we do forward herewith a Public Petition to your esteemed house seeking your intervention to salvage a project on the improvement of road meant to serve the Residents of Vota in Mua ward of Machakos Town Constituency to tarmark:

We do request your office to kindly be obliged to admit the same.

We are also instructed to request that all correspondence to our clients be channeled through us.

Should you require any further information and/or clarification, kindly do not hesitate to contact us?

Yours faithfully,

**FOR: NYAMU & NYAMU CO. ADVOCATES**

*wn/pm*  
  
**WILFRED NYAMU**



**CLIENTS**

V.A.T No. 0126844T

When replying Please Quote Ref No.

PIN No. F051148568M

REPUBLIC OF KENYA  
TWELFTH PARLIAMENT  
THE NATIONAL ASSEMBLY

PUBLIC PETITION



REGARDING THE OBSTRUCTION OF TARMACKING OF THE KONZA -KATUMANI,  
A PROJECT UNDERTAKEN BY KENYA URBAN ROADS AUTHORITY

We the undersigned residents of Vota of Mua ward in Machakos Town Constituency;

**DRAW** the attention of this House on the following:-

1. **THAT**, the road between Konza from Mombasa road to Katumani through Vota has been in use for over fifty (50) years by all residents and other persons crossing from Mombasa Road to Machakos Town through Katumani.
2. **THAT** the road has and at all material times for decades been maintained and funded by Kenya Rural Roads Authority and/or the relevant department of the National Government for decades, with Public Transport vehicles, pedestrians and private motor vehicles frequently use the same.
3. The Kenya Roads Board has already listed the above road as one that is approved for classification and allocation of reference number.
4. **THAT** sometime in November, 2018, the road was taken over by Kenya Urban Roads Authority, and a contractor was engaged to approve the road from marram to tarmac.
5. **THAT** no sooner had the contractor gone to the site, than one Harrison Kikavi Muambi, a director of a company known as Muambi Properties Limited confronted the contractor and has since obstructed the contractor from any further works as he claims ownership of the land.
6. **THAT** it has been established from a survey map that the road comprised in the parcel of land known as LR NO. 355/2 registered in the name of Muambi Properties Limited.
7. **THAT** the land aforesaid was created whilst the road existed as mother title being L.R NO 1161
8. **THAT** the land allegedly owned by the said Harrison Kikavi Muambi is approximately 400 meters.
9. **THAT** the necessity of the use of access to Mombasa Road from Katumani along Wote Road is continuous and the period of time is indefinite.
10. **THAT** the Kenya Urban Roads Authority has been unable to tarmac the said road which serves hundreds of families and has been very helpful to people accessing Mombasa from Katumani ,Vota and katoloni areas of Machakos, Town Constituency.

11. **THAT** Kenya Urban Roads Authority wishes tarmac the said road to ease means of transportation.

12. **THAT** none of the issues raised in this petition are pending in any Court of law, Constitutional or legal body.

#### **LEGAL FOUNDATIONS OF THE PETITION**

1. Article 37 of the Constitution of Kenya 2010, provides that every person has the right to present petitions to public authorities.
2. Article 95 (1) of the Constitution of Kenya 2010 provides that the National Assembly represents the people of the constituencies and special interests in the National assembly.
3. Article 95 (2) of the constitution of Kenya 2010 provides that the National Assembly deliberates on and resolves issues of concern to the people.
4. Article 119 of the constitution of Kenya 2010, provides that every person has a right to petition parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.
5. Section 141(1) of the land act states that the benefit of an easement, and analogous right granted under this part shall, during the term of its existence, be enjoyed by the owner of the dominant land and that owners' successors in title and by-
  - (a) any lessee of the dominant land, or so far as the nature of the easement ,or analogous right permit ,and part of it andArticle 141(2) any person referred to in subsection 1(a) and (b) who is entitled to the benefit of an easement or analogous right may take in the person's own name any proceedings necessary to enforce that easement or those analogous rights.
6. Section 143 of the Lands Act gives powers to the National Land Commission to create public right of way for the benefit of the public.

#### **GROUND'S UPON WHICH THE PETITION IS PREMISED**

1. The registered owner of the Land has obstructed the Kenya Urban Roads Authority from tarmacking the road between Konza and Katumani.
2. The road having been used by members of the public and maintained by the Government for more than Thirty (30) years there is basis for the National Land Commission to create a public right over the parcel of land known as L.R No. 353/2 situated in Mua within Machakos Town Constituency.
3. The right of way having been enjoyed by the public for decades and maintained by the Government without any interruption or objection from the registered



owner, there is justification for the portion of land utilized as a road be declared a public road devoid of any provision for compensation to the registered owner.

4. There is no convenient alternative road and unless this August House intervenes, the residents of Vota and other members of the public are likely to be highly prejudiced and inconvenienced as the road project is likely to be withdrawn and the funds utilized elsewhere.

**THEREFORE**, your humble Petitioner prays that the National Assembly invokes Article 37, 95(i) and (ii) and Article 119 (i) of the Constitution of Kenya, Section 143 of the Land Act, 2012 and allows this petition for prayers as hereunder:-

- i) Portion of the land known L.R no. 355/2 ordinary utilized as road connecting Katumani and Mombasa road through Vota be declared public land for public purpose and for public interest in accordance to Article 40(3)(a) Article 60 (1) (h) and Section 141 & 143 of the Land Act, 2012 of the Constitution of Kenya, 2010.
- ii) Recommendation that there is an easement on the land known as L.R No. 355/2as petitioned by members of the public and that the National Lands Commission creates an easement over L.R No. 355/2 for purposes of Public road.
- iii) This house be pleased to make any other recommendations as it deems fit in the circumstances of this matter.

And your **PETITIONER** so prays.

**PRESENTED BY:**

1. **BERNARD KIOKO MUTISYA I/D NO. 7259507**

  
.....  
SIGN

2. **KALII DANIEL I/D NO.22497671**

  
.....  
SIGN

3. **JOSHUA MULINGE MBITHI I/D NO. 25597653**

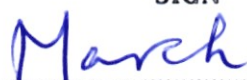
  
.....  
SIGN

4. **MUEMA MAKAU I/D NO. 10514718**

  
.....  
SIGN

5. **PATRICK KIMUYU KIIO I/D NO. 12536225**

  
.....  
SIGN

DATED at NAIROBI this  Day of  2020.

**DRAWN & FILED BY:-**  
NYAMU & NYAMU CO.  
ADVOCATES  
MAYFAIR CENTRE  
1ST FLOOR WING A  
RALPH BUNCHE ROAD  
P.O. BOX 75928-00200  
**NAIROBI**





Mombasa A 109

Katumani

Kapiti Plains  
Estate

